

**Illinois Department of Revenue
Regulations**

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| Title 86 Part 440 Section 440.170 Sales Out of Illinois |
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TITLE 86: REVENUE

**PART 440
CIGARETTE TAX ACT**

Section 440.170 Sales Out of Illinois

- a) The tax imposed by the Act does not apply to cigarettes that are shipped by the selling distributor from within this State to a point outside the State, not to be returned to a point within this State, unless the cigarettes bear evidence underneath the sealed transparent wrapper of the original package indicating that the tax has been paid. Distributors need not affix tax stamps to the original packages of cigarettes that they sell and ship outside the State. Manufacturers who are distributors of cigarettes in original packages that are contained inside a sealed transparent wrapper are not required to imprint evidence of cigarette tax liability and payment underneath a sealed transparent wrapper if the manufacturer-distributor ships the cigarettes to the purchaser at a point outside this State, not to be returned to a point within this State. The burden of proof, however, is at all times upon the distributor to show that the cigarettes actually went into interstate commerce.

- b) Illinois distributors claiming exemption from the tax on cigarettes on the ground that shipments or deliveries were made in interstate commerce shall provide the Department with the name and address of the persons receiving the shipments or deliveries in the foreign states; and must keep in their books and records the following:
 - 1) A waybill, bill of lading or other evidence of shipment issued by a common carrier; or
 - 2) an insurance receipt or registry receipt issued by the United States Postal Department, or a Post Office Department receipt form 3817; or
 - 3) a copy of the seller's invoice covering the sale, showing delivery by the seller or his agent at a designated out-of-State address (which shall be the address of premises owned, leased or otherwise legally possessed by the purchaser), and certified to and signed by the purchaser or his agent. However, if, upon investigation, the out-of-State premises to which the delivery allegedly is made, are found not to have been premises which were owned, leased or otherwise legally possessed by the purchaser at the time of such delivery, the transaction will not be regarded as a tax-free sale.

- c) The Department reserves the right to require additional proof as it deems necessary in any particular case.

- d) Distributors who make shipments or deliveries of cigarettes in interstate commerce and claim cigarette tax exemption shall record each shipment on a Schedule accompanying their cigarette revenue return for the month in which the shipments were made. The total number of cigarettes recorded on the Schedule may be entered as a claimed exemption from the tax on the cigarette revenue return.
- e) Except as provided in Section 440.220 of this Part, the sale may not be made tax-free if the cigarettes are delivered in Illinois to the purchaser or his representative, notwithstanding the fact that the purchaser or his representative may then take or send the cigarettes outside Illinois for use outside Illinois.
- f) Subject to the conditions stated in subsection (g) and (h), Illinois licensed distributors of cigarettes may make tax-free sales of cigarettes to out-of-State retailers who can certify that the cigarettes are to be removed immediately from the State of Illinois for resale outside of Illinois in a state in which that purchaser is registered as a licensed tobacco retailer.
- g) Illinois distributors claiming exemption from the tax on the grounds that sales are made to an out-of-State retailer for resale outside of this State shall maintain in their records as proof of exemption:
 - 1) A certification from the purchaser that the cigarettes are purchased by him for resale outside of the State of Illinois and will be immediately transported out of this State,
 - 2) Proof of the purchasing retailer's valid out-of-State tobacco retailer's license, and
 - 3) A copy of the purchasing retailer's Illinois Transporter Permit issued under Section 440.170 of this Part.
- h) Distributors who make sales of unstamped cigarettes to certifying out-of-State retailers shall record each sale on a Schedule accompanying their cigarette revenue return for the month in which the sales are made.

(Source: Amended at 27 Ill. Reg. 1618, effective January 15, 2003)